

7
No. 95-891

Supreme Court, U.S.

FILED

APR 30 1996

CLERK

In The
Supreme Court of the United States

October Term, 1995

STATE OF OHIO,

v.

Petitioner,

ROBERT D. ROBINETTE,

Respondent.

On Writ Of Certiorari
To The Ohio Supreme Court

JOINT APPENDIX

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**Petition For Certiorari Filed December 5, 1995
Certiorari Granted March 4, 1996**

35pp

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The following opinions, decisions, judgements and orders have been omitted in printing the joint appendix because they appear on the following pages in the appendix to the printed Petition for Certiorari:

Motion to Suppress filed by Robert Robinette, filed February 19, 1993	App. 27
Decision Overruling Motion To Suppress, filed March 8, 1993.....	App. 24-25
Opinion of the Court of Appeals for Mont- gomery County, filed April 15, 1994	App. 15-23
Opinion of the Ohio Supreme Court, dated September 6, 1995	App. 1-14

CHRONOLOGICAL LIST OF
RELEVANT DOCKET ENTRIES

December 18, 1992 - Indictment filed.

February 19, 1993 - Motion to Suppress filed.

February 26, 1993 - Hearing Held on Motion to Suppress.

March 8, 1993 - Decision of the Trial Court Overruling
Robinette's Motion to Suppress filed.

April 15, 1994 - Final Entry filed by the Court of Appeals.

September 6, 1995 - Entry and Mandate of the Ohio
Supreme Court.

THE STATE OF OHIO,
MONTGOMERY COUNTY
COURT OF COMMON PLEAS

Second Grand Jury
September Term, 1992

The State of Ohio

vs.

ROBERT D. ROBINETTE

INDICTMENT FOR
DRUG ABUSE

A TRUE BILL

/s/ James F. Mergler
Foreman of the Grand Jury

MATHIAS H. HECK, JR.
Prosecuting Att'y, Montgomery County

DIRECT

THE STATE OF OHIO, MONTGOMERY COUNTY

92-CR-2800

THE COURT OF COMMON PLEAS

*Second Grand Jury September Term in the
year Nineteen Hundred and Ninety-Two*

(Filed Dec. 18, 1992)

MONTGOMERY COUNTY, ss.

THE GRAND JURORS of the County of Montgomery,
in the name, and the authority of the State of Ohio, on
their oaths do present and find that **ROBERT D. ROB-
INETTE**,

*on or about the 3rd day of August in the year one thousand
nine hundred and ninety-two in the County of Montgomery,
aforesaid, and State of Ohio, did knowingly
possess a controlled substance, to-wit: Metlylenediox-
ymethamphetamine (MDMA), a drug included in Sched-
ule I; contrary to the form of the statute (in violation of
Section 2925.11(A) of the Ohio Revised Code) in such case
made and provided, and against the peace and dignity of
the State of Ohio.*

Respectfully submitted,

MATHIAS H. HECK, JR.,
Prosecuting Attorney
Montgomery County, Ohio

By /s/ Linda F. Reed
Assistant Prosecuting Attorney
Supreme Court #0055286

"NOTICE: AS A RESULT OF THIS INDICTMENT, THE DEFENDANT MAY NOT KNOWINGLY ACQUIRE, HAVE, CARRY OR USE ANY FIREARM OR DANGEROUS ORDNANCE. SEE SECTION 2923.13 OF THE OHIO REVISED CODE."

JUDGE JOHN W. KESSLER

D(4)

ORDER

TO: **GARY HAINES, Sheriff**
Montgomery County, Ohio

You are commanded by the court to notify

ROBERT D. ROBINETTE

2420 FOXHILL DRIVE

MIAMISBURG, OHIO 45342

THAT he has been indicted by the Grand Jury of Montgomery County and that each person named in the indictment is hereby ordered to personally appear at 8:30 A.M. on the 7th day of January, 1993 before the Honorable **JOHN M. MEAGHER** Judge of the Court of Common Pleas in Courtroom No. 5 in the Courts Building at 41 North Perry Street, Dayton, Ohio; and that FAILURE TO APPEAR WILL RESULT IN A WARRANT FOR ARREST, FORFEITURE OF BOND, IF ANY, OR ADDITIONAL CRIMINAL CHARGES FOR FAILURE TO APPEAR UNDER R.C. 2937.99.

I certify that this is a true copy of the original indictment on file in this office.

PATRICK F. MEYER, Clerk
Court of Common Pleas,
Montgomery County

By _____

RETURN

On the date stated next to the name of the defendant(s) below, I served a duly certified copy of the within Indictment and Order for appearance by handing the same to said defendant(s).

GARY HAINES, Sheriff

Fees \$ _____

By _____, Deputy

IN THE COURT OF APPEALS
OF MONTGOMERY COUNTY, OHIO
SECOND APPELLATE DISTRICT

STATE OF OHIO :
Plaintiff-Appellee : Case No. 14074
v. : (T.C. Case No. 92-CR-1800)
ROBERT D. ROBINETTE : FINAL ENTRY
Defendant-Appellant :

(Filed Apr. 15, 1994)

Pursuant to the opinion of this court rendered on the 15th day of April, 1994, the judgment of the trial court is *Reversed*, and this cause is *Remanded* to the trial court for further proceedings consistent with the opinion of this court.

WILLIAM H. WOLFF, JR., Judge

/s/ Mike Fain

MIKE FAIN, Judge

/s/ Frederick N. Young

FREDERICK N. YOUNG, Judge

Copies mailed to:

CARLEY J. INGRAM
JAMES D. RUPPERT
HON. JOHN W. KESSLER

THE SUPREME COURT OF OHIO

1995 TERM

To wit: September 6, 1995

State of Ohio, : Case No. 94-1143
Appellant, : JUDGMENT ENTRY
v. : APPEAL FROM THE
Robert D. Robinette, : COURT OF APPEALS
Appellee. :

This cause, here on appeal from the Court of Appeals for Montgomery County, was considered in the manner prescribed by law. On consideration thereof, the judgment of the court of appeals is affirmed consistent with the opinion rendered herein.

It is further ordered that the appellee recover from the appellant his costs herein expended; and that a mandate be sent to the Court of Common Pleas for Montgomery County to carry this judgment into execution; and that a copy of this entry be certified to the Clerk of the Court of Appeals for Montgomery County for entry.

COSTS:

Docket Fee, \$40.00, paid by Mathias H. Heck, Jr.

(Montgomery County Court of Appeals; No. 14074)

/s/ Thomas Moyer
THOMAS J. MOYER
Chief Justice

**TRANSCRIPT OF TESTIMONY,
SUPPRESSION HEARING**

[p. 3] WHEREUPON, with counsel of record, defendant, and appropriate court personnel present, the proceedings commenced, to-wit:

The Court: Good morning, counselor.

Ms. Sorrell: Morning.

Mr. Ruppert: Morning:

The Court: This is Case 92-CR-2800. Caption is State of Ohio versus Robert Robinette. The matter is before the Court this morning for a hearing on a motion to suppress physical evidence and statements allegedly obtained from the defendant flowing from an arrest and a search.

Can we stipulate that any search that may have been conducted was conducted without a warrant?

Ms. Sorrell: Yes, Your Honor.

Mr. Rupert: Yes, Your [p. 4] Honor.

The Court: Very well. Counsel for the defendant is present, Mr. James Ruppert. Counsel for the State of Ohio, Ms. Janet Sorrell, is present.

Counsel ready to proceed?

Mr. Ruppert: We are ready, Your Honor.

Ms. Sorrell: State's ready, Your Honor.

The Court: Very well.

You may call your first witness then.

Ms. Sorrell: Thank you, Your Honor.

Prior to calling my first witness there are a couple preliminary matters.

The Court: Okay.

Ms. Sorrell: First, Your Honor, we have a videotape that is already set in the machine and Mr. Ruppert and I have agreed that we will stipulate to the videotape, that it is a fair and accurate portrayal of what occurred that night. It's a reproduction of the - of the videotape that was going in the patrol car at the time.

And the Court then could look at it at its [p. 5] leisure as opposed to this morning.

The Court: Stipulate to the admissibility of the video, Mr. Ruppert?

Mr. Ruppert: Yes, Your Honor, we will do that.

Ms. Sorrell: And the final item is, I have prepared a memorandum of law. I have previously given Mr. Ruppert a copy of it this morning. And that's the Court's copy.

The Court: Thank you.

Ms. Sorrell: And with that, I'll call Deputy Newsome to the stand.

The Court: All right.

ROGER NEWSOME,

sworn by the judge, testified as follows:

Mr. Newsome: I do.

The Court: Please be seated.

DIRECT EXAMINATION BY MS. SORREL:

Q Would you state your name and place of business, sir?

[p. 6] Roger Newsome. Sheriff's deputy with Montgomery County, Dayton, Ohio.

Q And how long have you been a deputy sheriff?

A Eleven years.

Q And what's your current duty assignment?

A Road patrol.

Q Were you on duty on August 3rd, 1992?

A Yes, I was.

Q And at that time, at approximately 20:29 hours, where were you stationed at?

A I was on Interstate 70.

Q And do you know a crossroad on Interstate 70 to give us a little better location?

A Close to mile post - let me correct that. Diamond Mill Road and Crestway. In between those two roads.

Q Okay.

And is that intersection located in Montgomery County, State of Ohio?

A Yes, it is.

Q And while you were on duty there, what did you observe?

A Uhm, as it pertains to this case, I observed a red Firebird traveling eastbound.

Uhm, I was sitting in a construction zone, speed [p. 7] limit 45 miles an hour, and I clocked this vehicle on radar at 69 miles per hour and proceeded to stop that vehicle.

Q Okay.

And do you know approximately where the vehicle stopped?

A In the vicinity of Crestway Drive.

Q And that stop would have been within Montgomery County, State of Ohio?

A Yes, it would

Q And at that time once the vehicle stopped, what did you do?

A I approached the driver and received his driver's license, I believe his registration, had him step to the rear of the car, discussed the reason I stopped him as being a speeding violation, the construction area up there at that time being 45 miles an hour, the orange barrels in place and so on. We were having quite a few accidents. Any violations, we were trying to stop to basically just slow the flow of traffic down.

I issued the driver, Mr. Robinette, a verbal warning for the speed and then handed his driver's license back to him.

Q And you indicated that the driver was Robert D. [p. 8] Robinette?

A Yes.

Q And do you see Mr. Robinette in the courtroom today?

A Yes, I do.

Q And can you tell the Court where he's seated and what he's wearing?

Mr. Rupert: We'll stipulate this is the driver of the automobile.

The Court: Very well.

Ms. Sorrell: Thank you.

BY MS. SORRELL:

Q At the time you gave Mr. Robinette this warning, were you located inside your patrol car, or outside, or where were you physically at?

A Outside my patrol car. Directly in front of it.

Q And were [sic] was he? Also outside the vehicle?

A Yes, he was.

Q Was there anyone else traveling with Mr. Robinette?

A Yes. He had a passenger.

Q And where was he?

A He was located in the pass - front seat, [p. 9] passenger side.

Q And up until this point in time, had you had any contact with the passenger?

A I don't believe I did.

Q And was Mr. Robinette seized in any way or under restraint in any way?

A No, ma'am.

Q After you gave Mr. Robinette the warning, what did you do?

A Like I say, I gave his driver's license back to him, and after I had completed the stop, I asked Mr. Robinette if he was carrying any contraband in his vehicle. He stated no. I then asked him if I could search his vehicle and the contents of his vehicle for possible contraband.

Q And what did he say?

A He said yes.

Q And what do you do then?

A Well, I had Mr. Robinette and his passenger, I believe, step up to the front of their vehicle.

Q And why was that?

A For my own safety.

Q Okay.

A And I proceeded to look inside the car.

Q Now, up until this point, had you ever done a [p. 10] frisk of Mr. Robinette?

A No, I hadn't.

Q And so then you proceeded to look into the car?

A Yes, I did.

Q And do you recall where in the car you started? Driver's side? Passenger side? Trunk? What type - what part of the car you started with?

A I really don't recall which side I started with. Uhm, I seem to remember that I started on the passenger side, but I don't - I'm not real sure.

Q Okay. Well, while you were searching, what, if anything, did you find?

A I found marijuana. I found two small plastic baggies, if I recall, with white residue in them, and I found a plastic clear - what appeared to be a film canister with some sort of a pill inside.

Q And did you show Mr. Robinette these items and tell him what you had found?

A Uhm, the only thing that I can remember actually showing Mr. Robinette was the pill.

Q Okay.

And do you recall what conversation you had with him regarding the pill?

A Well, I stepped back to my - when I - uhm, started to locating the contraband, I believe the [p. 11] marijuana was the first thing I found.

I then felt that I had probable cause to go to the rest of the route through the vehicle.

I had both subjects have a seat in the rear of my car and then I continued to search.

I later found the pill.

Uhm, I walked back to my patrol car and asked who the pill belonged to and Mr. Robinette said, "That's mine." And I said, "What is it" or something to that effect, and he said he would like to speak with his attorney before he answered anything.

Q Okay.

At any time did Mr. Robinette tell you he wanted you to not search the car? To stop your search?

A No. He never said stop.

Q And after you were informed that he wanted to speak to his attorney, did you ask him any more questions?

A No.

Other than name, address, and things like that, nothing to do with the case itself.

Ms. Sorrell: I have nothing further, Your Honor.

The Court: Cross examination?

[p. 12] Mr. Ruppert: Thank you, Your Honor.

CROSS EXAMINATION BY MR. RUPPERT:

Q Deputy, after you stopped Mr. Robinette's vehicle, as I understand it, you approached the driver's side and you asked for Mr. Robinette's license, did you not?

A That's the normal thing that I did. I - during that period of time, I was approaching on both sides of the

vehicle and I honestly don't remember if I went to the driver's side or the passenger side. I've never seen the videotape.

Q You haven't looked at that?

A No.

Q Well, the Court will have the benefit of that.

When you initially approached the vehicle to check with the driver, of course the only thing you had observed was the speeding violation; is that correct?

A That's correct.

Q And when you went up to Mr. Robinette to obtain whatever information you needed, you did not turn on the video camera, did you?

A That, I don't remember.

[p. 13] Q All right.

A I'm sorry. Go ahead.

Q Let me ask you to assume if the tape reflects that the video is started while Mr. Robinette is behind his vehicle, then I guess we can presume you did not start the tape before that.

A That's probably true.

Q All right.

Do you recall that when you obtained his license, you then returned to your vehicle before you got Mr. Robinette out of the vehicle?

A That could very well be, as well.

Like I say, I just don't remember.

Q And do you recall that, I take it if you would have done that, that what you were doing was calling in on his license?

A That, or turning the camera on, one or the other.

Q If the camera does not show you getting Mr. Robinette out of the vehicle, then I take it that you had to turn it off at some point after he was already out of the vehicle?

A That I turned it on?

Q That you turned it on after he was out of the vehicle.

[p. 14] A That could be so.

Q I'll represent that Mr. Robinette is standing to the rear of the vehicle when the tape first goes on.

A Okay.

Q At any rate, do you recall that after returning to your vehicle, you then returned to Mr. Robinette's car, removed him from the vehicle, and asked him to stand to the rear of his vehicle?

A That pretty much is the way I was running things at that time. Probably correct.

Q And do you recall that after doing that, you then returned again to your vehicle and turned the video camera on?

A I just can't remember. It's been so long ago, I just -

Q But, any rate, you agree that if Mr. Robinette is standing behind his vehicle when the video starts, you obviously had to turn it on after you got him out of the vehicle?

A Yeah. That's true.

Q When you - at what point did you determine that you were going to give Mr. Robinette a warning?

A Uhm, normally I was giving just everyone up there warnings. I pretty much knew I was going to give them a warning right when I stopped them.

[p. 15] We were having so many accidents up there. And when we stopped somebody it was slowing everyone else down.

And it's an area that I don't think they had construction actually going on at that time, but barrels were still up, the lights were still flashing, the speed limit hadn't changed, so I really didn't feel that handing out tickets was necessary.

Just if I could just slow folks down.

Q So at any rate, you determined - what point did you determine you were going to let him go, that you were going to issue a warning? Was that before you got him out of the vehicle?

A Unless there was something wrong with his driver's license or something out of the ordinary, a warning was what I was going to issue when I stopped him. I had meant to issue a warning.

Q You do recall that, in fact, you did issue a warning?

A I believe so.

Q What was the purpose of turning on the videotape?

A We record our stops. The program that I was in at the time was called highway drug interdiction, which we're out there looking for narcotics and we use the [p. 16] video camera to record the stops.

Q And do you normally turn on the video before you remove the occupants from the vehicle?

A As procedure, I try to turn it on - the way it's supposed to be wired up, as soon as the overhead lights come on, it comes on. In my case, my vehicle hadn't been set up that way and so it was a very small manual button that I had to push.

It could have been that I had - it happened to me several times where I thought the camera was on and discovered it was turned off.

I'm not sure if that's the case this time, but I had to turn the camera on manually.

Q So I take it if you had already determined in your mind that you were going to let Mr. Robinette go, and you turned the video camera on, I take it you already were aware that you were going to ask him questions about what he had in the vehicle?

A Right.

Q So you turned it on and you wanted to record the fact that you were going to ask him if he had anything illegal?

A Yes.

Q And then you asked - in fact, well, the tape will reflect that you had asked him if he was carrying [p. 17] any weapons of any kind, drugs, anything like that, and then you asked about the luggage that each of them had, did you not?

A I believe so.

Q All right.

When you did commence the search, I think you indicated the first thing that you observed, and I think the tape will reflect this, that you observed some marijuana in the console?

A I believe so.

Q And that was a small quantity of marijuana, was it not?

A I think so, yeah.

Q If the tape reflects that when you got back in your vehicle that you radioed in to another officer that you had an 18 M. Is that a minor misdemeanor?

A A misdemeanor.

Q After you initially started to search the vehicle and noted what you thought to be marijuana, you then placed both the driver as well as the passenger in your cruiser, did you not?

A I believe so.

Q You put them in the back of the cruiser?

A Right.

Q And you advised them that - you said they were [p. 18] not under arrest, but they were in the rear of your cruiser and they could not get out, could they?

A That's right.

Q And you indicated, I think, that they were under investigative detention?

A Right.

Q Thereafter, of course, you removed all of the luggage from the vehicle and searched all of the luggage as well as the console?

A Yes.

Q I think at some point then you radioed for another police officer?

A I believe I did.

Q And the only charge filed in this case was a result of an - apparently a small portion of some type of pill that you found in the container?

A I think so. Correct.

Mr. Ruppert: Thank you, Your Honor.

The Court: Any redirect?

Ms. Sorrell: Yes, Your Honor, just briefly.

[p. 19] **REDIRECT EXAMINATION BY MS. SORRELL:**

Q Officer, you indicated that you were on a drug interdiction team?

A Yes.

Q As part of that team, was it standard then if you made a traffic stop that you asked for permission to search the car?

A Yes.

Q Is that the routine way you handle things?

A Yes, it is.

Q When you did that, if a driver of the car had refused and told you no, what would have happened?

Mr. Ruppert: Objection.

The Court: If it's a question of procedure, we'll permit it.

Overruled. you may answer.

A If the driver indicated that he did not want me to search, I didn't. They were free to go.

BY MS. SURRELL:

Q And after you finished the search of this particular vehicle - uhm, you indicated that at one point they were under investigative detention?

[p. 20] A Right.

Q And once you had found your pill and you took that into your custody and control, what did you do with Mr. Robinette?

A I believe I placed him under arrest.

Q And do you know how his car left the area?

A By tow truck.

Ms. Sorrell: I have no further questions.

The Court: Any recross?

Mr. Ruppert: Nothing.

The Court: You may step down, officer.

You may call your next witness.

Ms. Sorrell: I have no further witnesses, Your Honor.

The Court: Anything from the defendant?

Mr. Ruppert: I'll call Mr. Robinette.

The Court: Very well.

* * *

[p. 21] ROBERT D. ROBINETTE,

duly sworn by the Judge, testified as follows:

Mr. Robinette: I do.

The Court: Please be seated.

DIRECT EXAMINATION BY MR. RUPPERT:

Q Would you state your name for the record, please, sir?

A Robert Dwayne Robinette.

Q And Mr. Robinette, when you were stopped on this day in question - uhm, could you tell us, did the Officer approach the vehicle from the driver's side?

A Yes, he did.

Q And when he first approached the vehicle, what did he ask for?

A Uhm, he asked for my driver's license.

Q Did he remain at the side of the vehicle or did he return to his cruiser?

A Then returned to his car.

Q And were you still seated in your vehicle?

A Yes.

[p. 22] Q All right.

And then at some point he returned back to the driver's side of the vehicle; is that correct?

A Yes.

Q And what did he then do?

A Then asked me to step out of the car.

Q And where did you go once you stepped out of the vehicle?

A Went back behind my car, between my car and his car.

Q Had the officer returned your license to you at that point in time?

A No.

Q Then what did the officer do once you were removed to the rear of your vehicle?

A Uhm, believe he asked me a few questions and then he asked me to wait there and returned to his car.

Q All right.

And what did he do inside his vehicle?

A I couldn't tell. Couldn't see.

Q This was a sunny afternoon in August, right?

A Yes.

Q How long did he remain in his cruiser?

A Uhm, maybe five minutes at the most.

Q And - uhm, I take it then he returned to where [p. 23] you were standing?

A Yes.

Q And did he indicate to you at that time that he was giving you a warning and that you were free to go?

A Yes, he did.

Q And then at that time, I think, as the tape will reflect, the officer asked you some questions about did you have any weapons of any kind, drugs, anything like that. Do you recall that question?

A Yes.

Q What was running through your head at that time?

A Uhm, surprised. I didn't know what - where he was coming from or what was going on or why he was asking me the question.

Q Did you in fact feel you were free to leave at that point?

A I thought I was.

Q And did you attempt to leave at that point?

A Uhm, I was beginning to. Yes.

Q All right.

And the officer apparently followed that - by the way, I think you indicated in response to his question that you were not carrying anything illegal; is that correct?

A Yes.

[p. 24] Q The officer then asked if he could search your vehicle. What went through your mind at that point in time?

A Uhm, I was still sort of shocked and I - I thought - I just automatically said yes.

Q Did - did you feel that you could refuse the officer?

A No.

Q All right.

Then after that, as I understand it, he removed the passenger from the vehicle, did he not?

A Yes.

Mr. Ruppert: That's all I have, Your Honor.

The Court: Cross examination?

Ms. Sorrell: Thank you, Your Honor.

CROSS EXAMINATION BY MS. SORRELL:

Q Mr. Robinette, you were traveling with another person; is that correct?

A Yes.

Q And where had you come from?

[p. 25] A From Chicago.

Q And you were traveling also sort of in tandem with another vehicle; is that true?

A Uhm, yes.

Q And what type of vehicle was that?

A Uhm, believe it was a Ford truck.

Q Pickup truck or -

A Yes.

Q Had you been anywhere prior to coming from Chicago? Did you say Chicago?

Mr. Ruppert: Objection.

The Court: Relevance, counselor? It's cross, but relevance?

Ms. Sorrell: I'll withdraw the question.

BY MS. SORRELL:

Q At the time that you were stopped by Deputy Newsome, isn't it true that at all times he was very nice to you?

A Yes.

Q And at no time did he ever draw his weapon or show any type of authority? Isn't that true?

A He didn't draw a weapon, no.

[p. 26] Q And your friend was always there with you in the car; is that correct?

A Yes.

Q Now, you knew, of course, that you had the marijuana in your in the car. Isn't that true?

Mr. Ruppert: Objection.

The Court: I assume this defendant's being called under the Simmons doctrine for the limited purpose of examining the probable cause for the search and/

or consent for the search and voluntariness of statements that may have been issued, as opposed to the issue of possession.

Is that a fair statement, counsel?

Mr. Ruppert: I'm sorry, Your Honor.

The Court: Is that a fair statement?

Mr. Ruppert: Yes, Your Honor. We're here on a motion only, and I don't think that merits of the case are proper for interrogation.

The Court: Ms. Sorrell, any response to that?

Ms. Sorrell: No. I'll withdraw the question, Your Honor.

[p. 27] **BY MS. SORRELL:**

Q I believe you testified that Deputy Newsome returned your driver's license to you. And at that point you felt that you were free to leave; is that correct?

A Yes.

Q And you indicated that then he asked you whether or not you had contraband in the vehicle; is that correct?

A Yes.

Q And you - and you obviously knew that you could answer that either yes or no; isn't that true?

A Yes.

Q And although you could have automatically said yes, that being the truth, you, in fact, said automatically no; isn't that correct?

Mr. Ruppert: Objection.

The Court: Well -

Mr. Ruppert: That again goes to the merits of the issue. There are actually three answers; yes, no, and I don't know. Actually, four; I don't have to answer that.

The Court: Except that apparently this has to do with something that may be contained on the stipulated exhibit.

[p. 28] From that standpoint it may be relevant to these issues.

We'll overrule the objection in this instance. You may answer.

Do you want the question again?

BY MS. SORRELL:

Q Do you understand the -

Mr. Ruppert: Do you understand the question, Mr. Robinette?

A I'm not sure. I was being asked the question about the contraband. I didn't understand contraband. I wasn't sure. Firearms, I think he asked me about and I said yes. I automatically said no to these, to the question.

BY MS. SORRELL:

Q Do you understand that contraband also would have included illegal drugs?

A No.

Q You didn't know that at the time?

The Court: You have to answer that question.

[p. 29] A No. I didn't know that contraband was illegal drugs.

BY MS. SORRELL:

Q If the tape would indicate that the officer asked you about drugs, would that perhaps jog your memory? Do you recall if that was asked?

A Yes. I think he did ask about drugs.

Q And in fact, you knew that you did have drugs in the car. Isn't that correct?

Mr. Ruppert: Objection.

The Court: Sustained.

BY MS. SORRELL:

Q You indicated that you felt that you could not tell the officer not to search the car; is that correct?

A Yes.

Q And yet you knew that you could tell him you didn't want to answer any more questions. Isn't that correct?

A I didn't really think about that.

Q Wasn't it true that later in the conversation you refused to answer questions and you knew you had that [p. 30] right?

A Because he told me then that I had that right.

Q He had already told you that at that point?

A When I answered no, that I didn't want to answer any more, yes.

Q If I might have a moment, Your Honor.

Have you ever been stopped in the past for any type of driving offense?

A Uhm -

Mr. Ruppert: Objection.

The Court: Relevance, counsel?

Ms. Sorrell: Just to show or to find out, Your Honor, whether or not he has had prior contact with the police.

The Court: Overrule the objection. You may answer.

A I've been stopped for speeding tickets.

BY MS. SORRELL:

Q And so you knew basically the routine that most police officers follow when they stop you for a speeding violation?

A Yes.

[p. 31] Q And isn't it correct that Deputy Newsome followed pretty much the standard routine?

Mr. Ruppert: Objection. Don't know how this -

The Court: It would be speculation. Sustained.

BY MS. SORRELL:

Q At any time did you fear for your safety with Officer Newsome?

A No.

Q And how far have you gone in school, sir?

A Uhm, I have a college degree.

Q And what's that degree in?

A Uhm, it's a bachelor of science in botany.

Ms. Sorrell: I have no further questions, Your Honor.

The Court: Any redirect?

Mr. Ruppert: No, Your Honor.

The Court: You may step down.

Mr. Ruppert: Thank you, Mr. Robinette.

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